

Excerpts
Planning Commission Minutes
January 8, 2003

Application No. ZT-71-03, York County Planning Commission: Request to amend the York County Zoning Ordinance (Chapter 24.1, York County Code) to revise Section 24.1-373, FMA-Floodplain Management Overlay District, to incorporate certain changes required by the Federal Emergency Management Agency for consistency with the National Flood Insurance Program requirements.

Mr. Mark Carter presented a summary of the staff recommendation contained in a memorandum dated December 20, 2002 after which Mr. Hendricks opened and closed the public hearing. There were no speakers.

PC03-1

On motion of Mr. Ptasznik, which carried 5:0 (Mr. Simasek absent), the following resolution was adopted:

A RESOLUTION TO RECOMMEND APPROVAL OF APPLICATION NO. ZT-71-03 TO AMEND THE YORK COUNTY ZONING ORDINANCE (CHAPTER 24.1, YORK COUNTY CODE) BY REVISING SECTION 24.1-373. FMA-FLOODPLAIN MANAGEMENT AREA OVERLAY DISTRICT TO INCORPORATE CERTAIN CHANGES REQUIRED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY

WHEREAS, Section 24.1-373 of the Zoning Ordinance sets forth the requirements applicable to floodplain management areas in the County; and

WHEREAS, the Federal Emergency Management Agency has notified the County of the need for certain revisions in the floodplain management overlay provisions in order to maintain full compliance with the requirements of the National Flood Insurance Program; and

WHEREAS, the Planning Commission has determined that amendment of the Zoning Ordinance as recommended would be consistent with the needs and general welfare of the public that desires to participate in the National Flood Insurance Program;

NOW, THEREFORE, BE IT RESOLVED by the York County Planning Commission this the 8th day of January, 2003 that it does hereby sponsor an application to amend Chapter 24.1, Zoning, of the York County Code to consider the following amendments to Section 24.1-373:

Sec. 24.1-373. FMA-Floodplain management area overlay district.

- (a) *Statement of intent.* In accordance with the objectives of the comprehensive plan, these regulations are intended to ensure the health, safety and general welfare of the public by ensuring that inhabitants and property within the areas designated as flood hazard areas are safe from damage due to flooding and that development actions will not endanger others. This section complies with the requirements of the National Flood Insurance Program (42 U.S.C. 4001, et seq.) administered by the Federal Emergency Management Agency and is necessary to ensure that all property owners within the county are eligible for participation in the National Flood Insurance Program regular program and thereby able to secure such insurance at nominal rates.
- (b) *Applicability.*

- (1) The special provisions established in this section shall apply to the following areas:
 - a. Areas designated as being within the 100-year floodplain by the Flood Insurance Study and as delineated on the Flood Insurance Rate Map (FIRM) dated December 16, 1988, or as subsequently may be amended as Zone A, Zone AE, or Zone VE. A copy of the Flood Insurance Study and accompanying maps shall be filed in the offices of the zoning administrator and building official.
 - b. Such other areas as may be determined by the zoning administrator, through drainage and hydrology studies, to be essential to the alleviation of potential flood damage caused by the 100-Year Flood and for which the county has requested amendment or revision of the Flood Insurance Rate Map.
 - (2) These special provisions shall supplement the regulations of the zoning district within which a subject property is located. The floodplain districts described herein shall be overlays to the existing underlying zoning districts.
 - (3) Where these regulations are at variance with the general regulations of this chapter, the specific regulations of the zoning district within which the property is located, or other provisions of this Code, the most restrictive regulation shall apply.
 - (4) Any changes to the data contained in either the Flood Insurance Study or the Flood Insurance Rate Map as a result of natural or man-made conditions or subsequent study and analysis shall require the approval of the National Flood Insurance Administrator prior to implementation. Evidence of such approval shall require the filing with the zoning administrator of one of the following:
 - a. Letter of Map Amendment (LOMA)
 - b. Letter of Map Revision (LOMR)
 - c. Physical Map Revision

In all cases, the burden of proof shall be on the applicant requesting a map or data change.
 - (5) No land shall hereafter be developed and no structure shall be located, relocated, constructed, reconstructed, enlarged, or structurally altered within the floodplain management area except in full compliance with the terms and provisions of this section.
- (c) For the purposes of this section, the following terms shall have the following meanings:

Basement. As used in this section, a basement shall be defined as any part of any structure where the floor is below ground level on all four-sides.

Channel. A perceptible natural or artificial waterway which periodically or continuously contains moving water confined to a definite bed and banks.

Development. Any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and the storage of materials and equipment.

Flood or flooding.

- A general and temporary condition of partial or complete inundation of normally dry land areas from:
- overflow of inland or tidal waters, or

- the unusual and rapid accumulation or run-off of surface waters from any source, or
- mudslides (i.e., mudflows) which are proximately caused by flooding or precipitated by accumulations of water on or under the ground.

The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by water or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or by some similarly unusual and unforeseeable event which results in flooding as defined above.

Flood, 100-Year. A flood level with a one-percent (1%) or greater chance of being equaled or exceeded in any year. Also referred to as base flood.

Flood elevation, base. The elevation in feet of the 100-Year Flood level as shown on the Flood Insurance Rate Map (FIRM) published by the National Flood Insurance Program and the Federal Emergency Management Agency.

Flood hazard zone. The delineation of special flood hazard areas into insurance risk and rate classifications on the Flood Insurance Rate Map (FIRM) published by the Federal Emergency Management Agency and which include the following zones and criteria:

- *Zone A.* Areas subject to inundation by the 100-Year Flood where detailed analyses have not been performed and base flood elevations are not shown.
- *Zone AE.* Areas subject to inundation by the 100-Year Flood as determined by detailed methods with base flood elevations shown within each area.
- *Zone VE.* Areas along coastal regions subject to additional hazards associated with storm wave and tidal action as well as inundation by the 100-Year Flood.
- *Zone X.* Areas located above the 100-Year Flood boundary and having moderate or minimal flood hazards.

Floodplain. A land area which is likely to be inundated by a flood. Floodplain areas are generally adjacent to a river, stream, bay, lake, watercourse, or storm drainage facility.

Floodplain management area. A land area located within a Flood Hazard Zone or which has been designated by the County and to which the provisions of this section apply.

Floodproof. A construction method designed to ensure that all parts of a structure or facility located below the base flood elevation are watertight with walls impermeable to the passage of water and with structural components having the capability of withstanding hydrostatic and hydrodynamic loads and the effects of buoyancy.

~~*Floodway and regulatory floodway.* The channel of any river, stream, watercourse, or storm drainage facility and the adjacent areas reserved in an unobstructed manner to carry the discharge of a 100-Year Flood without increasing flood levels.~~

Manufactured home. The provisions of section 24.1-104, *Definitions* of this chapter notwithstanding, for purposes of this section, a manufactured home shall be defined as a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. Also included within this definition shall be park trailers, travel trailers, and other similar vehicles placed on a site for more than one hundred eighty (180) consecutive days, excluding however, those such vehicles stored on a property and not used for their intended purposes.

Mean sea level. National Geodetic Vertical Datum (NGVD) of 1929 to which all elevations on the FIRM and within the Flood Insurance Study are referenced.

Sand dune. Naturally occurring accumulations of sand in ridges or mounds landward of the beach.

Substantial improvement. For purposes of this section, substantial improvement of existing structures shall be defined as any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds fifty percent (50%) of the market value of the structure before the improvement or repair is started or, if the structure has been damaged, before the damage occurred. The following, however, shall be excluded from the above definition:

- Alterations made to any structure listed on either the National Register of Historic Places or the Virginia Register of Historic Landmarks.
- Actions of an emergency nature taken to comply with existing Virginia or county codes which are necessary solely to ensure safe living conditions.

Watercourse. A natural or artificial channel for the passage of running water fed from natural sources in a definite channel and discharging into some stream or body of water.

(d) **Use Regulations.** Permitted uses, specially permitted uses, accessory uses, dimensional standards, and special requirements shall be as established by the underlying zoning district, except as specifically modified herein.

(1) The following uses shall be specifically prohibited within Floodplain Management Areas:

- a. Landfills, junkyards, outdoor storage of inoperative vehicles.
- b. Manufactured homes
- c. Surface mines and borrow pits
- d. Manufacture, bulk storage, transformation or distribution of petroleum, chemical or asphalt products or any hazardous materials as defined in either or both of the following:
 1. Superfund Amendment and Reauthorization Act of 1986
 2. Identification and Listing of Hazardous Wastes, 40 C.F.R. §261 (1987)

The following products shall be specifically included:

- a) Oil and oil products including petrochemicals
- b) Radioactive materials
- c) Any material transported or stored in large commercial quantities (such as 55-gallon drums) which is a very soluble acid or base, causes abnormal growth of an organ or organism, or is highly biodegradable, exerting a strong oxygen demand
- d) Biologically accumulative poisons
- e) Substances containing the active ingredients of economic poisons that are or were ever registered in accordance with the provisions of the *Federal Insecticide, Fungicide, and Rodenticide Act*, as amended (7 USC 135 et seq.)

- f) Substances highly lethal to mammalian or aquatic life
 - e. Storage or land application of industrial wastes
 - f. Outdoor storage of equipment, materials, or supplies which are buoyant, flammable, or explosive.
- (2) The provisions of article VIII. *Nonconforming Uses* of this chapter notwithstanding, no expansion of any of the above uses located within the Floodplain Management Area shall be permitted.

(e) *Special standards and requirements.*

- (1) *Standards for subdivisions.* Preliminary plans, development plans and final subdivision plats of all properties, all or part of which are located within any flood hazard zone, must be prepared and sealed by a licensed surveyor or engineer. The following information, in addition to that which would otherwise be required, shall be provided on the respective plans:
- a. The 100-Year Flood boundary, as depicted on the FIRM and the flood hazard zone classification(s) shall be depicted on preliminary plans, development plans, and final plats.
 - b. Development plans shall provide topographical information for the site at a maximum contour interval of two feet (2') ~~{0.5m}~~, provided, however, that a one foot (1') ~~{0.25m}~~ contour interval for elevations one foot (1') ~~{0.25m}~~ lesser and one foot (1') ~~{0.25m}~~ greater than the 100-Year Flood boundary shall be shown.
 - c. The elevation of the finished surface of the ground at each corner of each existing building located within any flood hazard zone shall be shown on development plans and final plats.
- (2) *Standards for site plans.* Site plans for development of all properties, all or part of which are located within any Flood hazard zone, must be prepared and sealed by a licensed surveyor or engineer and include the following information in addition to that which would otherwise be required:
- a. The 100-Year Flood boundary, as depicted on the FIRM and the flood hazard zone classification(s).
 - b. Topographical information for the site provided at a maximum contour interval of two feet (2') ~~{0.5m}~~, provided, however, that a one foot (1') ~~{0.25m}~~ contour interval shall be required for elevations one foot (1') lesser and one foot (1') ~~{0.25m}~~ greater than the 100-Year Flood boundary and the boundary itself shall be shown.
 - c. The elevation of the finished surface of the ground at each corner of each existing or proposed building location within any flood hazard zone.
- (3) *Standards for utilities.* All new or replacement utilities, water filtration, and wastewater treatment facilities, installed in the floodplain management area shall be designed to prevent the infiltration of floodwaters into or discharge from such utilities and to minimize the potential for flood damage.

Where private waste disposal systems are to be installed or replaced, they shall be installed so that they will not be permanently contaminated or impaired by a base flood.

- (4) *Standards for streets and roads.* The finished centerline elevation of all new public or private streets shall be no lower than six and one-half feet (6½') ~~{2m}~~ above mean sea level (NGVD) provided, however, that where an existing street not meeting this criterion is to be extended, the zoning administrator may approve streets or parts thereof which are below this elevation, but not lower than the elevation of the existing street.
- (5) *Standards for filling of floodplain areas.*
- a. Where fill within the floodplain management area is proposed, the following minimum standards shall apply:
1. Fill areas shall extend laterally a minimum of fifteen feet (15') ~~{4.5m}~~ beyond building lines from all points.
 2. Fill material shall consist only of soil and small rock materials which can pass through a three-inch (3") ~~{75mm}~~ opening ASTM standard sieve. Organic materials, including tree stumps and asphalt rubble, shall be prohibited.
 3. Fill areas shall be compacted as may be specified by the zoning administrator to provide necessary permeability and resistance to erosion, scouring, or settling.
 4. Fill areas shall be graded to a finished slope of no steeper than one (1) vertical to three (3) horizontal, unless substantiated data, certified by a licensed engineer, which justifies steeper slopes is submitted to and approved by the zoning administrator.
 5. The zoning administrator shall impose any additional standards deemed necessary to ensure the safety of the community and properties from additional flood hazard potentials caused by filling within the floodplain management area.
- ~~b. Filling or any other encroachment into a regulatory or other designated floodway which, as determined by the zoning administrator, in any way impairs its flood conveyance shall be prohibited.~~
- b. Filling or any other encroachment into any channel within the floodplain management area which would, as determined by the zoning administrator, obstruct or unduly restrict water flows through the channel and, in so doing, increase the potential for flood damage shall be prohibited whether or not such channel lies within the regulatory or other designated floodway.
- c. The filling of any portion of property solely to increase the elevation of the land to meet minimum lot area requirements and thereby create a buildable lot for residential construction within the floodplain management area shall be prohibited.
- d. These standards may be waived individually by the zoning administrator, upon the recommendation of the wetlands board for approved parks, recreation facilities, shoreline erosion control and beach maintenance projects where sufficient data is presented justifying the project and where it is demonstrated that such actions will not increase flood levels on any properties.

- (6) *Standards for watercourse modification.* Watercourses shall not be altered or relocated except upon the presentation of data, certified by a licensed engineer, that the flood-carrying capacity of such a modified watercourse will be at least equal to that prior to modification. Prior to any proposed alteration of any channels or of any watercourse or stream within the Floodplain Management Area overlay district, a permit shall be obtained from ~~The zoning administrator shall, at minimum, obtain the approval of the Federal Insurance Administrator, the Natural and Technological Hazards Division of the Federal Emergency Management Agency, any adjacent localities and, if deemed appropriate, the Army Corps of Engineers, or the Virginia Department of Environmental Quality, and the Virginia Marine Resources Commission.~~ Furthermore, notification of the proposal shall be given by the applicant to all affected adjacent jurisdictions, the Department of Conservation and Recreation (Division of Soil and Water Conservation) and the Federal Insurance Administration. ~~Water Board, prior to granting approval for any watercourse modifications.~~

- (7) *Construction standards for properties in Zone AE.* All new construction or substantial improvement in Zone AE of the floodplain management area shall occur in accordance with the applicable floodplain construction provisions for Zone AE contained in the Virginia Uniform Statewide Building Code. The zoning administrator shall be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy.

In addition, the following standards shall apply:

- a. It is strongly recommended that all new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed at least one and one-half feet (1½') ~~{500mm}~~ above the base flood elevation or otherwise designed and located so as to prevent water from entering or accumulating within the system.
- b. It is strongly recommended that all electrical distribution panels be installed at least three feet (3') ~~{1m}~~ above the base flood elevation or otherwise designed and located so as to prevent inundation.
- c. In all cases, elevation of the lowest floor of the structure, including basements, to at least one and one-half feet (1½') ~~{500mm}~~ above the base flood elevation or, in the case of non-residential structures, floodproofing to at least that level, is strongly encouraged and may result in a reduction of flood insurance premiums.

- (8) *Construction standards for properties in Zone VE.* All new construction or substantial improvement in Zone VE of the floodplain management area shall occur in accordance with the applicable floodplain construction provisions for Zone VE contained in the Virginia Uniform Statewide Building Code. The zoning administrator shall be satisfied that all applicable provisions have been complied with prior to issuing building permits or temporary or permanent certificates of occupancy. In addition, the following standards shall apply:

- a. All new construction or development shall be located landward of the reach of the mean high tide.
- b. Any man-made alteration of a sand dune or any part thereof shall be prohibited.
- c. No structure or any part thereof may be constructed on fill material of any kind.
- d. It is strongly recommended that all new and replacement electrical equipment, and heating, ventilating, air conditioning and other service facilities be installed at least three feet (3') ~~{1m}~~ above the base flood elevation or otherwise designed

and located so as to prevent water from entering or accumulating within the system.

- e. It is strongly recommended that all electrical distribution panels be installed at least six feet (6') ~~{2m}~~ above the base flood elevation or otherwise located so as to prevent inundation.
- f. In all cases, elevation of the lowest structural member of the lowest floor of the structure, excluding pilings or columns, to at least three feet (3') ~~{4m}~~ above the base flood elevation is strongly encouraged and may result in a reduction of flood insurance premiums.

(9) *Construction standards for properties in Zone A.* All new construction or substantial improvements in Zone A must comply with all standards applicable to Zone AE contained in this section and the floodplain construction provisions of the Virginia Uniform Statewide Building Code. In addition, the owner and developer of such property shall provide to the zoning administrator sufficiently detailed hydrologic and hydraulic analyses, certified by a licensed engineer, to determine the base flood elevation for the property and the location of the 100-Year Flood Boundary. Upon approval by the zoning administrator, copies of all such detailed analyses shall be transmitted to the National Flood Insurance Administrator for incorporation into the FIRM.

- (f) *Variances.* Variances from the provisions of this section may be granted by the board of zoning appeals in accordance with the provisions of article IX of this chapter except that the board of zoning appeals shall notify all applicants, in writing, that the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to an annual premium equal to twenty-five percent (25%) of the total insurance coverage and that such construction increases risks to life and property, both their own and others. Copies of this notification shall be transmitted, along with all other records of variances from the provisions of the floodplain management area, to the Federal Insurance Administrator at least biannually. In granting variances from the provisions of this section, the board of zoning appeals shall find that the variance is the minimum necessary to afford relief.

(Ord. No. 098-18, 10/7/98)
